

## **§ 103.18**

asset value ratio of the business being financed.

(b) Applications for refinancing loans not guaranteed or insured under this part 103 will not be approved for guaranty or insurance if, in the opinion of the Commissioner, the submittal of the application is motivated primarily to obtain guaranty or insurance of a loan which otherwise would be made.

[40 FR 12492, Mar. 19, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 57 FR 46473, Oct. 8, 1992]

### **§ 103.18 Furnishing additional information.**

The Commissioner may require either the lender or the borrower, or both, to furnish additional information or justification for a loan prior to issuance of a guaranty certificate or insurance agreement where Commissioner approval of an individual insured loan is required.

### **§ 103.19 Approval of guaranteed loans.**

(a) Upon a lender's approval of an application for a guaranteed loan, the lender will forward the application in duplicate to the Commissioner with a "Request for Guaranty". The Commissioner will approve the application by issuance of a "Guaranty Certificate" which will show the percentage amount of the loan guaranteed, the premium to be paid to the Commissioner and the interest subsidy to be paid on the loan by the United States.

(b) If the application is not approved, the original will be returned to the lender with an explanation, and a copy furnished the loan applicant.

### **§ 103.20 Approval of insured loans.**

After a lender approves a loan eligible for insurance in accordance with an approved insurance agreement, the lender will proceed as authorized by the agreement. Applications for insured loans which require approval by the Commissioner as prescribed in § 103.14 will be forwarded in duplicate to the Commissioner with a "Request for Insurance" signed by the lender. The Commissioner will approve the application by issuance of an "Insurance Agreement". If the application is not approved, the original will be returned to the lender with an explanation.

## **25 CFR Ch. I (4-1-00 edition)**

### **§ 103.21 Modification of loan agreements.**

(a) Guaranteed and insured loans may be modified with the approval of the parties to the original loan agreement. Modification of guaranteed loans and those insured loans which required Commissioner approval, requires the Commissioner's approval only if the modification involves:

- (1) Change of the repayment schedules,
- (2) Changes in the prime security,
- (3) Change of interest rate,
- (4) Change in the use of loan funds,
- (5) Increase in the principal amount of a loan, except as provided in § 103.22,
- (6) Change of the plan of operation,
- (7) Amendment or changes in the organization papers of the borrower,
- (8) Changes in partnership agreements, and
- (9) Change in the location of an enterprise.

(b) Lenders making insured loans which under the provisions of an approved insurance agreement do not require Commissioner approval shall use prudence in approving requests for modifications of loan agreements and follow the lender's customary procedures and practices which are used in connection with noninsured loans made by it. Modifications are to be in compliance with the provisions of §§ 103.13, 103.14, and 103.24. Lenders making insured loans under the provisions of such an insurance agreement shall notify the Commissioner not later than 20 days after approval of a modification of such insured loan. Modifications of the organization papers of corporations or cooperative associations and partnership agreements and plans of operation which originally required Commissioner approval, require approval by the Commissioner upon modification.

### **§ 103.22 Protective advances.**

When provided for in a loan agreement, and subject to the limitations on the amounts and terms of loans as provided in §§ 103.13, 103.14, and 103.24, lenders may advance, for certain purposes, up to 10 percent of the amount for which a guaranteed or insured loan originally was approved. If the borrower is unable to provide the funds or refuses to do so, an advance may be

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made for purposes necessary and proper for the preservation, maintenance or repair of the property purchased with or given to secure the loan; for accrued taxes, special assessments, ground and water rents, and hazard and liability insurance premiums; and for any other purpose necessary for the protection of the interest of the lender or borrower. The additional advance will be charged against the borrower. Repayment of the protective advance shall be automatically guaranteed or insured at the same percentage rate as applied to the original amount of the loan upon the Commissioner's receiving notice from the lender that an additional amount has been advanced with a statement as to the necessity and purpose(s) of the advance. Such documentation shall be furnished along with the premium for the additional amount pursuant to § 103.43(b). The amount of any additional advance shall be scheduled for repayment proportionately over the remaining installments of the unpaid principal balance of the loan. The interest rate charged on protective advances as provided for in this section will be determined in accordance with the provisions of § 103.41.

### § 103.23 Increase in principal of loans.

(a) Borrowers requiring additional funds may apply for an increase in a guaranteed or insured loan with the same lender. Applications to increase the amount of guaranteed and insured loans which originally were approved by the Commissioner, require his approval upon increases in amounts. Lenders making insured loans which under the provisions of an approved insurance agreement which did not require Commissioner approval, may approve applications for an increase in the principal of such loans subject to compliance with the limitations contained in §§ 103.14 and 103.24. Such insured lenders shall immediately notify the Commissioner upon approval of an increase in the principal of a loan and remit the premium on the increase pursuant to § 103.43(b).

(b) The application for an increase in the amount of a loan must show the reasons why an increase is needed, the amount and purposes for which the funds will be used, and the repayment

schedule. If the financing involves an economic enterprise, the application must be accompanied by the information required in § 103.15(a)(1) through (17) of this part.

(c) The interest rate to be charged on principal increases will be determined in accordance with the provisions of § 103.41.

[40 FR 12492, Mar. 19, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 57 FR 46473, Oct. 8, 1992]

### § 103.24 Maturity.

The period of maturity of guaranteed and insured loans will be determined according to the circumstances, but may not extend beyond 30 years from the date of the first advance. All maturities will be consistent with sound business practices and customs of lenders in the area.

### § 103.25 Amortization.

All loans shall be scheduled for repayment at the earliest practicable date consistent with the purpose(s) of the loans and the repayment capacity of the borrowers. Lenders will require amortization in accordance with customary practices in the area for loans for the same purposes. Loan payments may be scheduled for repayment either monthly, quarterly, semi-annually or annually. Balloon installments shall be avoided.

### § 103.26 Prepayments.

Borrowers whose loans are guaranteed or insured under this part 103 shall have the right to prepay all or any part of the indebtedness at any time without penalty unless otherwise provided for in the loan agreement. Lenders and borrowers may agree that prepayments applied to the latest loan installments may be reapplied to current installment(s) to cure or prevent any subsequent default. The Commissioner shall be notified promptly by the lender when payments are made in advance of the due dates.

### § 103.27 Amount of security.

Lenders will require borrowers to give security, if available, up to an amount adequate to protect the loan, without consideration of the guaranty or insurance. The lender shall itemize